HON'BLE DR. JUSTICE G. YETHIRAJULU

W.P.No. 2193 of 2003

DATE: 12-02-2008

Between:

Syed Masoom Peer

…… Petitioner

and

1. **A.P. State Wakf Board through its Chief Executive Officer having office at Public Gardens, Haj House Complex, Hyderabad and another.**

…….. Respondents

HON'BLE DR. JUSTICE G. YETHIRAJULU

W.P.No. 2193 of 2003

ORDER:

This writ petition is filed by the petitioner seeking to declare the

proceedings, dated 15-01-2003 issued by the Wakf Board appointing the second respondent as Joint Muthawalli, as null and void and is not in accordance with Section 63 of the Wakf Act and consequently to set aside the appointment of the second respondent as joint Muthawalli.

2. The petitioner contended that he was duly appointed as the Muthawalli of the first respondent Darga. Previously, his father worked as Muthawalli of the said Darga. The petitioner was discharging his duties as dejure and defacto Muthawalli since the date of his appointment till today. During his tenure of office, the second respondent filed a petition in the office of the first respondent stating that he should be appointed as Muthawalli of the first respondent Wakf on the ground that his father was the Muthawalli and that he has been appointed as Muthawalli by the congregants of the mosque after the death of his father and got recognized as Muthawalli. The petitioner further contended that the order of the enquiry was not conveyed to him, on the contrary he received the impugned proceedings issued by the Chief Executive Officer of the Wakf Board appointing the second respondent as Joint Muthawalli of the first respondent institution under Section 63 of the Act. The second respondent is not allowing the petitioner to act as Muthawalli with the help of his muscles men. The second respondent is physically restraining him from visiting the wakf institution and threatened the present pesh-imam stating that he should seek another job as he is going to dismiss him. The appointment of second respondent fraudulently gave him a licence to act as Muthawalli even though the petitioner has not been removed from the office of Muthawalli till today. Hence, the impugned proceedings have been assailed.

3. The impugned order was passed by the Wakf Board on 15-01-2003. The Wakf Board, after due enquiry and after going through the report of the enquiry officer regarding the objections filed by the petitioner for appointment of the second respondent as the Joint Muthawalli and after giving sufficient reasons, appointed the second respondent as the Joint Muthawalli. Though the petitioner generally stated that the second respondent was dominating and was not allowing

him to discharge his functions, the Wakf Board did not find such behaviour with the second respondent and after due consideration of all the aspects, the order was passed. No specific illegality has been pointed by the petitioner as to what are the disqualifications of the second respondent to be appointed as the Joint Muthawalli of the first respondent Darga.

4. After taking into consideration of the above aspects,

I am of the view that there are no grounds to issue any direction against the order of the first respondent by invoking the extraordinary writ jurisdiction under Article 226 of the Constitution of India. I do not find any merits in the writ petition.

5. Hence, the writ petition is dismissed. No order as to costs.

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DR. G. YETHIRAJULU, J

Date:12-02-2008

YCR